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5 Attorneys for Defendants Zurich American Insurance Company and Countrywide
6 Financial Corporation Group Insurance Plan

7
8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

10 *E-FILED - 4/19/06*

11 MARIA GARCIA and NADIA
12 GARCIA,

13 Plaintiffs,

14 vs.

15 ZURICH AMERICAN INSURANCE
16 COMPANY, COUNTRYWIDE
CREDIT INDUSTRIES, INC. PLAN,

17 Defendants.

CASE NO. C 05-05407 RMW

**STIPULATION AND ORDER
FOR STAY PENDING
ADMINISTRATIVE REVIEW**

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21 Plaintiffs Maria Garcia and Nadia Garcia ("Plaintiffs") and Defendants Zurich
22 American Insurance Company ("Zurich") and Countrywide Financial Corporation
23 Group Insurance Plan, improperly sued as Countrywide Credit Industries, Inc. Plan,
24 (the "Plan"), by and through their respective attorneys of record, hereby stipulate
25 and agree as follows:
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Case No. C 05-05407 RMW
STIPULATION AND ORDER FOR STAY
PENDING ADMINISTRATIVE REVIEW

1 1. Jose V. Garcia was a participant in an employee benefit plan
2 established and maintained by his employer, Countrywide Credit Industries, Inc.
3 ("Countrywide"). Countrywide funded the plan for accidental death benefits
4 through its purchase of Blanket Accident Policy Nos. GTU 8355516 and
5 GTU 8365517 issued by Zurich Insurance Company. Jose Garcia died while
6 vacationing with his family in Mexico.

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8 2. Claims for benefits were submitted by Plaintiffs under the Zurich
9 policies by reason of Mr. Garcia's death. In this lawsuit, Plaintiffs seek recovery of
10 benefits under the policies and injunctive relief.

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12 3. Plaintiffs and Zurich have agreed that the accidental death and
13 dismemberment claim under the Zurich policies and the appeal by Plaintiffs under
14 the Countrywide plan be remanded to the claim administrator for review and
15 exhaustion of Plaintiffs' administrative remedies. This stipulation is without
16 prejudice to any claims Plaintiffs may have arising from prior interactions between
17 the parties.

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19 4. As part of this agreement, Plaintiffs will have 60 days from the entry of
20 this order to submit any and all further evidence they wish Zurich to consider as part
21 of its administrative appeal.

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23 5. On March 9, 2006, Zurich subpoenaed from Kaiser Permanente
24 Medical Group certain medical records relating to Jose V. Garcia. In order to
25 conduct a full and fair review of Plaintiffs' claims, Zurich is required to obtain and
26 review that documentation.

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5464 / 95077.1

6. Zurich agrees to complete its administrative review on appeal within 60 days of the later of the following dates: (a) the date Plaintiffs submit any and all further documentation they wish Zurich to consider on appeal; and (b) the date Kaiser produces all records requested by Zurich in the subpoenas. If the review is not complete by that date, the appeal will be deemed denied and all administrative remedies will be deemed exhausted.

7. The parties further agree that Zurich will produce to Plaintiffs' counsel all documentation obtained from Kaiser through the above-referenced subpoenas.

8. The parties agree that by stipulating to remand, Plaintiffs do not waive their right to seek attorneys' fees incurred to date under ERISA § 502(g), and Zurich does not waive its right to challenge a claim for attorneys' fees on any other ground.

9. Finally, the parties agree that this action be stayed pending administrative review. Defendant Countrywide Financial Corporation Group Insurance Plan has waived service and will enter an appearance within 10 court days after the stay is lifted.

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10. The parties anticipate completion of administrative review within 120 days and will submit a status report at that time. If the matter is not resolved following completion of administrative review, the parties will file a joint request to lift the stay.

DATED: April 11, 2006

HINKLE, JACHIMOWICZ, POINTER &
MAYRON
MICHAEL MAYRON
JOEL WAELTY

By: 

JOEL WAELTY

Attorneys for Plaintiffs
Maria Garcia and Nadia Garcia

DATED: April 11, 2006

GALTON & HELM LLP
DANIEL W. MAGUIRE

By: 

DANIEL W. MAGUIRE

Attorneys for Defendants Zurich American
Insurance Company and Countrywide
Financial Corporation Group Insurance Plan

ORDER

IT IS SO ORDERED.

DATED: 4/19/06

/S/ RONALD M. WHYTE

HONORABLE RONALD M. WHYTE
UNITED STATES DISTRICT COURT